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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

W.P. No. 4708 of 2006

PETITIONER

Suryakant Chandrakar
Aged about 58 years,
S/o. Bhanu Prasad Chandrakar
R/o Mahasamund, Tehsil – Mahasamund, Distt. (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh, .
Through Secretary, Department of Law and Legislative Affairs, D.K.S Bhawan, Raipur (C.G.)
2. District and Sessions Judge, Raipur, Distt. Raipur (C.G.)
3. Smt. Gyani Lunia,
W/o Shri Ashok Lunia, Advocate,
R/o. Mahasamund, Tehsil,
Mahasamund, District Mahasamund (C.G.)
4. Ku. Manju Kiran Kalia, Advocate
R/o Baghbahara, Tehsil – Mahasamund, Distt. Mahasamund (C.G.)
5. Gopinath Sao, S/o Shri Jiwanlal Sao, Advocate, Mahasamund, Tehsil Mahasamund, Distt. Mahasamund (C.G.)

Present : Dr. N.K. Shukla, Sr. Advocate with Shri Dilip Dubey, learned counsel for the petitioner.
Shri Yashwant Singh, learned Govt. Advocate for the State of Chhattisgarh.

ORAL ORDER
(Passed on 30th August, 2006)

Respondents No. 3 to 5 are appointed as Notaries under the Provisions of the Notaries Act, 1952 by the Government of Chhattisgarh vide its order dated 01-07-2005. It appears that the petitioner herein had applied for Certificate of Registration as Notary, but, he was not appointed as a Notary. In this writ petition, the petitioner has questioned the validity of appointment of respondents No. 3 to 5 as Notaries.

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(2) Dr. N.K. Shukla, learned Senior Counsel appearing for the petitioner would contend that in view of the judgment of the learned Single Judge of the Madhya Pradesh High Court dated 25-04-2000 passed in W.P. No. 3715 of 1998 as affirmed by the Division Bench of the said Court vide its order dated 05-12-2003 in L.P.A. No. 160 of 2000, the Government ought not to have renewed the licences of respondents No. 3 to 5. The above contention of the learned Senior Counsel is not well-founded.

(3) It is true that in Writ Petition No. 3715 of 1998 filed in the High Court of Madhya Pradesh, the appointment of respondents No. 3 to 5 herein, as Notaries was assailed and the learned Single Judge of that Court having opined that the appointment of respondents No. 3 to 5 suffered from procedural *ultra virus* allowed the writ petition vide his order dated 13-07-1998 and quashed the appointment of respondents No. 3 to 5. Feeling aggrieved by that order of the learned Single Judge, the 3rd and 4th respondents herein namely Smt. Gyani Lunia and Ku. Manju Kiran Kalia preferred L.P.A. No. 160 of 2000. It appears that the Division Bench of Madhya Pradesh High Court having entertained that L.P.A. had stayed the operation of the order of the learned Single Judge and by virtue of the order of stay, respondents No. 3 to 5 continued as Notaries. The said L.P.A. was ultimately disposed of by a Division Bench of Madhya Pradesh High Court on 05-12-2003. When the L.P.A. was heard finally on that date, it was brought to the notice of the Division Bench of Madhya Pradesh High Court that by virtue of the interim order granted by the Court, respondents No. 3 to 5 continued as Notaries for full term of five years and their term had expired well before

05-12-2003. In view of the said submission made before the Division Bench, the L.P.A. was disposed of in the following term :

> "In that view of the existing factual matrix, we are inclined to direct that the cases of the concerned appellants shall be considered afresh for the appointment of Notaries. If any renewal has taken place in the meanwhile, the same shall not be disturbed.
>
> With the aforesaid direction, these appeal stand disposed of. There shall be no order as to costs".

(4) It appears that after the Division Bench of Madhya Pradesh High Court disposed of the L.P.A. dated 05-12-2003, respondents No. 3 to 5 made applications for renewal of the licence after the expiry of their previous term and the Government having considered the same renewed the licences by the impugned order. In my considered opinion, by necessary implication, the Division Bench of Madhya Pradesh High Court in the L.P.A. did not concur with or approve the finding of the learned Single Judge. I say this, because, if the Division Bench were to concur with the finding of the learned Single Judge of that Court, it ought not to have directed that the cases of respondents No. 3 to 5 herein should be considered afresh, and if any renewal by that time had taken place, the same should not be disturbed. Be that as it may, the Government which is a donee of the statutory power, has again considered the applications of the respondents No. 3 to 5 and granted licences to respondents No. 3 to 5. No arguments were advanced before me with urged to any procedural impropriety or the authority which had granted the licence acting arbitrarily or *mala fide* to vitiate the impugned action. The only contention raised by the learned

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Senior counsel was on the basis of the order of the learned Single Judge and the judgment of the Division Bench of the Madhya Pradesh High Court in L.P.A. No. 160 of 2000. This is not a fit case where this Court should step-in under Article 226 of the Constitution and interfere with the impugned order. I do not find any failure of justice. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice

Kamde